

furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

NOTE: The Commission's Guides Against Deceptive Pricing furnish additional guidance respecting price savings representations. See 16 CFR part 233 for the Guides Against Deceptive Pricing.

[Guide 17]

## PART 243—GUIDES FOR THE DECORATIVE WALL PANELING INDUSTRY

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AUTHORITY: 38 Stat. 717, as amended; 15 U.S.C. 41–58.

SOURCE: 36 FR 23796, Dec. 15, 1971, unless otherwise noted.

### §243.0 Definitions.

For the purpose of this part the following definitions shall apply:

(a) *Industry member.* Any person, firm, corporation, or organization engaged in the manufacture, sale or distribution of industry products as such products are hereinafter defined.

(b) *Industry products.* Industry products include all products, whether of domestic or foreign origin, which are suitable for use as interior decorative wall panels. Industry products may be composed of any material or combinations of materials including, but not limited to, solid wood, plywood, wood

products, plastics, metals, etc., and may be textured, prefinished, partially finished, or unfinished.

(c) *Exposed surface, front or face.* An "exposed surface" of a decorative wall panel is the one prominently exposed to view when the product is placed in the generally accepted position for use. The "exposed surface" is often referred to as the "front" or "face", as contrasted to the back of a panel.

(d) *Back.* The back of a decorative wall panel is the surface reverse to the face. The back is not generally intended to provide an esthetically pleasing appearance and, therefore, is not considered an "exposed surface" under the definition immediately above. However, these definitions do not preclude unusual construction giving a panel two exposed surfaces or faces.

(e) *Veneer.* In this part, the term *veneer* is used in the sense most commonly understood by ordinary consumers—namely, to describe a thin layer of more valuable or beautiful wood used on the face of a panel for overlaying an inferior wood or other core material.

### §243.1 Avoiding deception generally.

(a) *In general.* Industry members should not sell, offer for sale, or distribute industry products by any method, or under any representation, circumstance, or condition which has the capacity and tendency or effect of misleading purchasers or prospective purchasers as to the grade, type, kind, character, content, construction, composition, process, or technique used in preparation or fabrication, origin, size, thickness, quality, quantity, value, price, serviceability, resistance, performance, durability, color, finish, manufacture, or distribution of any product of the industry or component part of such product, or in any other respect.

(b) *Basis for affirmative disclosures of facts.* (1) Many of the following sections set forth specific examples as to when affirmative disclosures should be made in advertising and on labels. In order to prevent deception the Commission may require affirmative disclosure of material facts concerning merchandise which, if known to prospective purchasers, would influence their decisions of whether or not to purchase.

The failure to disclose such facts as may be required is an unfair trade practice violative of the Federal Trade Commission Act.

(2) Two of the most prevalent situations in which disclosures should be made are (i) when the appearance of a wall panel could mislead purchasers or potential purchasers as to its true composition, and (ii) when a representation is made in any manner which is susceptible of at least one misleading interpretation unless it is clearly qualified. Representations which cannot be qualified without the qualification amounting to a contradiction should not be used.

(c) *Manner of making disclosures on products and in advertising.* (1) Retail dealers, manufacturers, and other suppliers must all assume the affirmative responsibility to provide detailed information to the public concerning the compositions of wall panels through informative advertising, promotional materials, and properly labeled products and samples thereof.

(2) When disclosures are necessary on industry products, they should appear on each product (except when sold and used for industrial purposes and the industrial purchaser is otherwise fully informed of the material facts involved). Such disclosures should be on the product, or on a tag or label attached thereto, and be of such permanency as to remain on, or attached to, the product until consummation of sale to the ultimate purchaser. Conspicuous disclosures may appear on backs of wall panels, but in instances where such disclosures would not be readily noticeable to casual observers, such as on certain point-of-sale display panels where the backs are not easily viewed, disclosures should be made on the front or face of panels.

(3) When disclosures are necessary in advertising, they should be made in any advertisement relating to an industry product irrespective of the form or media used whenever statements, representations or depictions appear therein which, in the absence of such disclosures, could serve to create a false impression that the product, or any part thereof, is of a certain kind, size, quality or composition.

(4) In all cases, disclosures should be in immediate conjunction with any representation, depiction, illustration, simulation, or display making it necessary, and should be of sufficient clarity and conspicuousness to be noted by prospective purchasers. The number of times a disclosure should be made will depend entirely upon the context in which it appears.

(5) When disclosures are necessary to describe composition, they may be accomplished by stating the true composition (e.g., "mahogany grained hardboard", "walnut grain finish on plastic", "reproduction of wood grain on plastic overlay" or "printed vinyl overlay on plywood"), or by making a disclaimer of composition (e.g., "imitation wood surface", "simulated wood finish" or "simulated grain design"). Of course, a representation concerning the composition of a product should clearly indicate the part to which the representation is properly applicable.

NOTE: For examples of when disclosures should be made, see the following sections.

[Guide 1]

#### **§243.2 Describing wood and wood imitations.**

In connection with the sale of industry products made of wood, or which are not wood but have an appearance simulating wood, industry members should not use any display, exhibit, sample, sales method, depiction or representation which could have the capacity and tendency directly or indirectly to mislead purchasers or potential purchasers because of: A false statement; a half-truth; or the failure to disclose facts concerning composition when the appearance of a product could convey a misleading impression.<sup>1</sup>

(a) Examples of representations considered false include:

(1) Describing an oak panel as "pecan";

(2) Describing as "solid birch" or "genuine birch" a panel made with laminations of all birch plies. Proper descriptions would include "birch plywood" or "birch plies";

(3) Describing a particleboard, flakeboard, hardwood, fiberboard,

<sup>1</sup>See paragraphs (b) and (c) of §243.1.